

### **REMARKS**

Claims 33-36, 38, 46, 49, 51-53, 56, 57, 59-77 are currently pending. Claims 1-32 were previously cancelled and claims 37, 39-45, 47, 48, 50, 54, 55 and 58 are currently cancelled. Claim 33 is currently amended and support can be found, for example, at page 7, lines 16-22. Claim 34 is currently amended and support can be found, for example, at page 5, lines 7-9. Claims 36, 49, 51 and 53 are currently amended and support can be found, for example, at page 9, lines 3-7. Claims 38 and 52 are currently amended and new claim 70 is added, for which support can be found, for example, at page 8, lines 17-21; page 17, lines 1-6; and Figure 8. Claims 56 and 57 are amended to depend from claim 33.

New claims 59 and 73 are added and support can be found, for example, at page 7, lines 16-22. New claims 60-62 are added and support can be found, for example, at page 16, lines 7-21 and Figs. 7 and 8. New claims 63 and 64 are added and support can be found, for example, in original claim 11. New claims 65 and 66 have been added and support can be found, for example, at page 16, lines 17-25 and page 11, lines 12-25. New claim 67 has been added and support can be found, for example page 4, lines 18-21. New claim 68 has been added and support can be found, for example in original claim 1. Claim 68 is currently withdrawn from consideration, as directed to a non-elected species. New claim 69 has been added and support can be found, for example at page 6, line 19-24. New claim 71 has been added and support can be found, for example at page 9. New claim 72 has been added and support can be found, for example in Figures 5 and 6. No new matter has been added.

### **Species Restriction/Election**

Applicants are unclear as to the status of the Species Restriction Requirement made on October 20, 2006. The Examiner has failed to address the Applicant's arguments of March 27, 2007 regarding the improper species restriction requirement. In the Office Action of May 7, 2007, the Office Action Summary does not indicate that any claims are withdrawn from consideration. Furthermore, in this May 7, 2007 Office Action, claims 39-46 and 48 are rejected, and thus cannot be withdrawn from consideration. Thus, Applicants assume that the arguments regarding the species restriction requirement were persuasive and claims 39-46 and 48 are no longer withdrawn from consideration.

In the Communication issued by the Examiner on January 24, 2008, the Examiner states that the response filed November 7, 2007 is not fully responsive to the prior Office Action because it fails to indicate which of the amended and added claims are readable upon the elected species. Although it is still believed that the species restriction requirement is improper, Applicants submit that claims 33-36, 38, 46, 49, 51-53, 56, 57, 59, 60-67 and 69-73 read on Species II and possibly one or more other species. At least claims 60-66 and 69-73 are currently generic. Claim 68 is currently withdrawn from consideration as directed to Species I, however should be rejoined upon allowance of the generic claim 60, from which it depends.

### **35 U.S.C. 112, 1<sup>st</sup> Paragraph Rejection**

Claims 33-36, 38-46 and 49-57 were rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner states that the disclosure does not teach or suggest a wrinkled lining *non-detachably connected* with a surface of an elongated hollow structure. Although the Applicants do not agree with the Examiner, this limitation has been removed from the claim 33 without prejudice. Claim 39-45, 50, 54 and 55 has been cancelled, thus these rejections are moot.

Regarding claim 56, the Examiner states that the “opening of the pores during expansion of the structure in the wrinkled lining embodiment would not have been conveyed to the ordinary practitioner.” However, it is disclosed that “the lining smoothes out as the stent expands” (col 4, lines 19-21) and “the openings expand as the prosthesis expands” (page 6, lines 21-24). It is clear that when the lining is smooth the pores are also expanded from their “wrinkled” state and are thus opened.

### **35 U.S.C. 112, 2<sup>nd</sup> Paragraph Rejection**

Claim 48 was rejected under 35 USC 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. Claim 48 has been cancelled thus this rejection is moot.

**35 U.S.C. 102(e) Rejection**

Claims 58 was rejected under 35 U.S.C. 102(e) as being allegedly anticipated by U.S. Patent No. 5,957,971 to Schwartz (“Schwartz”). Claim 58 has been cancelled, thus this rejection is moot.

**Allowable Subject Matter**

Since there is no prior art cited against claims 33-36 and 38-57, Applicants assume that these claims have allowable subject matter.

New claims 59-73 are believed to be allowable. None of the cited references discloses a synthetic polymer recited in claims 33 and 59, as the fibrin film in Schwartz is a naturally occurring material. With respect to independent claim 60, none of the cited references disclose a double walled sleeve with an internal space, wherein the sleeve covers at least a portion of the exterior surface of an expandable hollow structure and expands therewith and a flexible delivery tube. Thus, it is believed that claim 60, and claims 61-73 dependent therefrom, are allowable.

**CONCLUSION**

The Applicants respectfully submit that this application is now in condition for allowance. Should any questions arise, the Examiner is invited to contact the undersigned at the number given below. The Commissioner is authorized to charge any additional necessary fees or to credit any overpayments to Deposit Account No. 11-0600.

Respectfully submitted,  
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